

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY
for authority to increase its rates for the
generation and distribution of electricity and for
other relief.

MPSC No. U-21870
(Paperless e-file)

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Attorney General’s Notice of Intervention

On May 28, 2025, Consumers Energy Company (“Consumers Energy” or “the Company”) filed a rate case summary describing its upcoming rate case filing, subject to modification. The Company plans to file its application on or after June 2, 2025. The Michigan Department of Attorney General’s Special Litigation Division on behalf of Attorney General Dana Nessel, gives notice of her intervention as a party in this proceeding and states the following:

I. Statement of Interest

1. Dana Nessel is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan. She is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, ch 3; MCL 16.150. The State of Michigan is a body politic established under the Constitution of the United States and admitted into the Union by Act of Congress in 1837.

2. The Attorney General, intervenes and appears in this proceeding for and on behalf of the People of the State of Michigan and for and on behalf of the State of Michigan, its departments, commissions, and agencies, as customers and ratepayers of the Company. Consumers Energy serves approximately 1.9 million retail electric customers. The interest of these customers is public in nature, being common among virtually all electric customers in Consumer Energy's service area. The State of Michigan is also a substantial user of and customer for the Company's electric services.

3. Both statutory and common law of Michigan authorizes the Attorney General's intervention and appearance in this proceeding. MCL 14.28 provides, in part:

[T]he attorney general . . . may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

The Attorney General has the right to intervene whenever the Attorney General, in her own discretion, deems it in the public interest to do so. *People v O'Hara*, 278 Mich 281; 270 NW 298 (1936); and *Gremore v People's Community Hosp Auth*, 8 Mich App 56; 153 NW2d 377 (1967). In her capacity as Michigan's chief law officer, the Attorney General has common law authority to represent public interests as she may deem necessary for the protection of public rights. *In re Certified Question (Wayne Co v Philip Morris, Inc)*, 465 Mich 537, 543-545; 638

NW2d 409 (2002); and *Withee v Lane & Libby Fisheries Co*, 120 Me 121, 123; 113 A 22, 23 (1921).

4. Furthermore, when the Attorney General deems it in the public interest to do so, she may intervene in any administrative proceeding at any stage of such a proceeding. *Attorney General v Liquor Control Comm*, 65 Mich App 88; 237 NW2d 196 (1975).

5. The Attorney General has determined that the interests of both the State and the People of the State of Michigan require her intervention in this proceeding on their behalf. This proceeding will directly affect the State and the People of this State who are customers of Consumers Energy. The State and correspondingly the taxpayers of this State pay significant amounts for utility service for the State in the conduct of the People's affairs. In addition, the People of this State who are customers of Consumers Energy pay large sums for utility service for their homes and businesses. Any action taken in this proceeding will directly affect both the economy of the State and the general well-being of the citizens and residents of this State.

II. Statement of Positions

6. On May 28, 2025, Consumers Energy filed a case summary indicating its intention to file an application to increase its electric rates in this case together with supporting testimony and exhibits on or after June 2, 2025.

7. According to the case summary, Consumers Energy plans to request that the Commission authorize an annual net increase of approximately \$436 million in the Company's retail electric rates for the 12-month period ending April 30, 2027.

8. Consumers Energy also plans to seek approval of an additional \$24 million for distribution deferral to be recovered through a separate 12-month surcharge.

9. Consumers Energy indicates that it may request that the Commission approve a rate of return on common equity of 10.25%, an overall rate of return on total rate base of 6.35%, and a common equity ratio of 50.75%.

10. Other likely requests identified by the Company include, but are not limited to, approval of an investment recovery mechanism (IRM) for two year beginning May 1, 2026. The Company proposes to continue the IRM using the same investment categories approved in Case No. U-21585 with the addition of two new sub-programs: Repetitive Outages and Vulnerable Communities; approval of a Service Restoration Resiliency Fund that would allow unspent service restoration dollars to be used to support service restoration expenses in future years when additional funds are needed; approval of Extraordinary Storm Accounting (ESA) that would allow the Company to use deferred accounting for service restoration costs for extraordinary storms that exceed base spending levels and cause at least 300,000 customer outages over a seven-day period or storms that qualify for a State of Emergency Declaration, with deferred costs to be considered for recovery in a

future rate case; continuation of the PowerMIDrive Residential, PowerMIDrive Public, and PowerMIFleet (PMF) programs with proposed enhancements; approval of costs associated with its DR programs and a DR surcharge consistent with the methodology approved in Case No. U-21585 along with treatment of related capital expenditures and O&M costs outside of general electric rate cases; approval of various deferrals related to certain distribution capital spending, line clearing ramp-up, river hydro costs, refund or recovery of O&M expenses related to staking and locating program, and the SAP S4/HANA Project; updates to the Company's cost-of-service-study (COSS) to address routine items and to incorporate some changes to certain COSS methodologies; approval of various revisions to Consumers' electric rules, regulations, and tariffs; recovery of associated amortization expense for the D.E. Karn Units 1 and 2 and J.H. Campbell Units 1, 2, and 3 retention, decommissioning, and ash disposal costs; among other things.

11. The Attorney General takes the position that the Commission should not approve Consumers Energy's requests without first developing an evidentiary record and conducting proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq*], to determine if the requests are just, and reasonable and prudent.

12. The Attorney General takes the position that Consumers Energy has the burden of proving that all capital expenditures included in its proposed rate base are reasonable and prudent. In addition, the Attorney General takes the position that before the Commission can include capital expenditures in Consumers

Energy's rate base and test year expenses, Consumers Energy has the burden of proving the reasonableness and prudence of previously unreviewed capital expenditures.

13. The Attorney General takes the position that Consumers Energy has the burden of proving that the Company's projected Operations & Maintenance expenditures are reasonable and prudent before the Commission can approve any proposed rate changes resulting from those projections.

14. The Attorney General takes the position that Consumers Energy has the burden of proving that all proposals, programs, plans, mechanisms, surcharges, allocations, deferrals, and rates referenced in its application, testimony and exhibits are lawful and just, and reasonable and prudent.

15. The Attorney General takes the position that Consumers Energy has the burden of proving all elements of its case by a preponderance of the evidence.

16. The Attorney General reserves the right to take additional and different positions based upon future discovery and evidence in this case.

III. Relief Requested

The Attorney General requests the Michigan Public Service Commission to:

A. Enter this Notice of Intervention into the official record of the captioned case and treat the Attorney General as a party to these proceedings for all purposes;

B. Develop an evidentiary record and conduct proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq.*];

C. Establish just and reasonable rates according to the whole record developed in this case; and

D. Grant any further and additional relief the Commission may decide is reasonable and lawful.

Respectfully submitted,

Dana Nessel
Attorney General

Celeste R. Gill (P52484)
Assistant Attorneys General
Special Litigation Division
6th Floor, G. Mennen Williams Bldg.
P. O. Box 30755
Lansing, MI 48909
Ph: (517) 302-6620
Email: gillc1@michigan.gov

Date: May 30, 2025

PROOF OF SERVICE - U-21870

The undersigned certifies that a copy of the *Attorney General's Notice of Intervention* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 30th day of May 2025.

Celeste R. Gill

Consumers Energy Company:

Spencer Sattler
Mark Ruskiewicz
Gary Gensch, Jr.
Evan Keimach
Bret Totoraitis
Anne Uitvlugt
Spencer.sattler@cmsenergy.com
Mark.ruskiewicz@cmsenergy.com
Gary.genschjr@cmsenergy.com
Evan.keimach@cmsenergy.com
Bret.totoraitis@cmsenergy.com
Anne.uitvlugt@cmsenergy.com
Mpsc.filings@cmsenergy.com
Kelly.hall@cmsenergy.com

Attorney General of Michigan:

Celeste Gill
Lucas Wollenzien
Gille1@michigan.gov
wollenzienl@michigan.gov
ag-enra-spec-lit@michigan.gov

MPSC Staff:

Lori Mayabb
mayabbl@michigan.gov